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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,806	02/08/2006	David John Goodwin	M03B119	4457
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THE BOC GROUP, INC. 575 MOUNTAIN AVENUE MURRAY HILL, NJ 07974-2064				
EXAMINER				
TRIEU, THERE SA				
ART UNIT		PAPER NUMBER		
3748				
MAIL DATE		DELIVERY MODE		
05/20/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,806

Applicant(s)

GOODWIN ET AL.

Examiner

Theresa Trieu

Art Unit

3748

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,8,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8,13,14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is responsive to the applicants' amendment filed on May 5, 2008.

Claims 1, 3-5, 8, 13 and 14 are pending in this application.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. However, an updated search and further review of the prior art of record, has prompted the new non-final rejections presented below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 3-5 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Suefujii et al. (Suefujii) (Patent Number 4,475,360).

Regarding claims 1, 3-5 and 14, Suefujii (as shown in Figs. 1-5) discloses a scroll wall arrangement for a scroll compressor comprising: a fixed scroll wall 5b and an orbiting scroll wall 6b, which together define a plurality of flow paths having respective inlets 7, 15a, 15b for simultaneous pumping at different pressures, wherein the plurality of flow paths comprise a first flow path extending from a first inlet 7 to an outlet 10 and a second flow path extending from a second inlet 15a, 15b to the outlet 10, and wherein the second inlet 15a, 15b is isolated from the first flow path, and wherein the first and second flow paths converge to form a merged flow path (see Fig.2); the pressure at the second inlet during pumping being higher/lower than the pressure

at the first inlet (7); the second inlet 15a, 15b being isolated from the first flow path by at least one wrap of the arrangement.

2. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as clearly being anticipated by Ikegawa et al. (Ikegawa) (Publication Number JP 61-258989).

Regarding claims 1 and 5, Ikegawa (as shown in Figs. 1-2) discloses a scroll wall arrangement for a scroll compressor comprising: a fixed scroll wall 1b and an orbiting scroll wall 2b, which together define a plurality of flow paths having respective inlets 6, 16, 17 for simultaneous pumping at different pressures, wherein the plurality of flow paths comprise a first flow path extending from a first inlet 6 to an outlet 7 and a second flow path extending from a second inlet 16, 17 to the outlet 7, and wherein the second inlet 16, 17 is isolated from the first flow path, and wherein the first and second flow paths converge to form a merged flow path (see Fig. 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Suefuji or Ikegawa in view of Reich et al. (Reich) (Patent Number 4,919,599).

Suefuji or Ikegawa discloses the invention as recited above; however, Suefuji or Ikegawa fails to disclose a turbomolecular pump being between the first chamber for pumping at low pressure and the scroll compressor.

Reich teaches that it is conventional in the art to utilize a first chamber 1 and a second chamber 3 having a respective interconnection therebetween; a turbomolecular pump 4, 6 having an inlet connected to the first chamber 1 for pumping at relatively low pressures. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the turbomolecular pump, as taught by Reich in the Suefuji or Ikegawa apparatus, since the use thereof would have improved the performance efficiency and preventing the disturbances in the area of the vacuum pump.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suefuji or Ikegawa in view of Asano et al. (Asano) (Patent Number 4,696,627).

Suefuji or Ikegawa discloses the invention as recited above; however, Suefuji or Ikegawa fails to disclose a position of the second inlet with respect to the first flow path.

Asano teaches that it is conventional in the scroll compressor art to utilize the second inlet 11 being isolated from the first flow path by one revolution of the fixed scroll wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the position of the second inlet, as taught by Asano in the Suefuji or Ikegawa

apparatus, since the use thereof would have controlled flow rate to the first and second suction chambers for enhancing the refrigerant or cooling performance. Also, applicants note that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have positioned of the second inlet being isolated from the first flow path by one revolution of the fixed scroll wall, since the scroll compressor would have performed equally well in that location and the mere repositioning of parts not effecting the functioning of the device involves only routine skill in the art, *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (see MPEP §2144.04).

Conclusion

5. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP §2163.06 II(A), MPEP §2163.06 and MPEP §714.02. The "disclosure" includes the claims, the specification and the drawings.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT
May 14, 2008

/Theresa Trieu/
Primary Examiner, Art Unit 3748